

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GUILLERMO FERNANDEZ Plaintiff, vs. JO ANNE B. BARNHART Commissioner SOCIAL SECURITY ADMINISTRATION	: : : : : : : : : :	CIVIL ACTION NO. 04-5192
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ORDER

AND NOW, this 10th day of June, 2005, upon consideration of the parties' Cross-Motions for Summary Judgment, and after careful review of the Report and Recommendation of United States Magistrate Judge Arnold C. Rapoport dated May 13, 2005, no objections having been filed, **IT IS ORDERED** as follows:

1. The Report and Recommendation of United States Magistrate Judge Arnold C. Rapoport dated May 13, 2005, is **APPROVED** and **ADOPTED**;
2. That part of plaintiff's Motion for Summary Judgment which seeks a remand to the Commissioner of Social Security is **GRANTED**. Plaintiff's Motion for Summary Judgment is **DENIED** in all other respects;
3. Defendant's Motion for Summary Judgment is **DENIED**; and,
4. The final decision of the Commissioner of Social Security which denied disability benefits to the plaintiff is **REVERSED** and the case is **REMANDED** to the Commissioner of the Social Security Administration in accordance with the fourth sentence of 42 U.S.C. § 405(g)

for further proceedings consistent with the Report and Recommendation of United States Magistrate Judge Arnold C. Rapoport dated May 13, 2005.

BY THE COURT:

/s/ Honorable Jan E. DuBois
JAN E. DUBOIS, J.